Mr. Art Williams
Mr. Jonathan Trout
Metro Louisville Air Pollution Control District
850 Barret Ave.
Louisville, KY 40204

RE: Rubbertown Emergency Action (REACT) Comments on Proposed Strategic Toxic Reduction Plan

REACT is a community based organization comprised mostly of residents that live near the eleven chemical plants in Rubbertown. After the U.S. Environmental Protection Agency declared that Louisville had the unhealthiest air in the southeast United States, REACT was organized with the goal of working for a clean and safe environment for Louisville residents, particularly the people living in Rubbertown. REACT has formed alliances with other organizations in Louisville and throughout the United States as well as an alliance with the Paper, Allied-Industrial, Chemical and Energy Workers (PACE) representing DuPont and DuPont Dow workers in Louisville.

Recognizing that the highest priority of our elected representatives and governmental agencies is to protect the health and safety of the community and that absent a comprehensive plan to substantially reduce toxic air pollution from stationary sources the community would continue to be exposed to hazardous levels of pollutants, REACT welcomes the Metro Louisville Air Pollution Control District and Mayor Jerry Abramson's proposed Strategic Toxic Reduction Plan (STAR) as a serious effort to improve the quality of air the people of Louisville breathe.

REACT offers the following concerns and recommendations as improvements to the plan.

Recommendations Relating to the STAR Plan

Data Availability

The STAR plan should include mandatory provisions that all company and industry STAR reports and data be provided to and stored in public repositories at the same time as the reports and data are submitted to Metro Louisville Air Pollution Control District. The repositories should be located in close proximity to the industrial facilities that submit the reports and data and easily accessible to community members living in the vicinity of the facilities.

Time Frame for Implementation of the Plan

The time frame for the implementation of compliance plans is too long for the second level of chemicals (Categories 2 and 3) and the moderate sources of toxic air pollutants.

Insufficient Staff

Given the seriousness of the air quality crisis in Louisville, the number of industries and companies regulated by the STAR plan and the subsequent volume of reports and data that will be generated by the plan, REACT is concerned that Metro Louisville Air Pollution Control District is not staffed sufficiently in order to fully implement and monitor the STAR plan. REACT recommends that additional staff positions be added to ensure the success of the program. For example, Air Pollution Control District's response and investigation of odor sources following community phoned in reports of odors should be better staffed. Investigations of complaints concerning odors in a community located near a pollution source may be an indication of an unreported malfunction and subsequent leak.

Enforceable Limits to Fenceline Concentrations Caused By Malfunction Releases

The plan should establish enforceable limits to the chemical concentrations in the air at the property line/point of compliance due to and/or related to malfunctions as well as start up and shutdown. This recommendation is based on the concern that frequent malfunctions as well as start up start ups and shut downs result in ***acute*** and ***chronic*** exposure of fenceline communities to the chemicals released into the air during these events.

Permit Modifications

In the event that implementation of the STAR program results in changes that require permit modifications, the STAR program should establish a process that requires emission reductions during the interim that the permit is being modified. Companies and businesses should not be allowed to delay compliance with emission reduction requirements while a lengthy permit modification process takes place.

Recommendations Concerning Specific Regulations

Regulation 1.06

Section 3.7 "The emissions data required by sections 3.1 to 3.5 shall include the process- or process equipment-specific calculations used to determine emissions. The raw data used to calculate the emissions shall be retained by the owner or operator of the stationary source ***for a period of not less than 5 years*** and ***shall be made available to the District upon request.*** Representative portions of the raw data used to calculate the emissions shall be supplied to the District in support of the emissions statement in a format provided by the District.

Recommendation: A provision should be added to the regulation that allows for community members to obtain the raw data used to calculate emissions. A similar provision should be inserted in appropriate sections throughout the regulations.

Recommendation: The length of time for the retention of documents was increased from two years to five years. A requirement should be added that documents should be retained for longer periods of time in the event of ongoing enforcement, compliance and/or legal proceedings. The length of time for document retention should be extended until legal and/or compliance issues are resolved. This provision should also be inserted in sections pertaining to document retention in the regulations.

Regulation 1.06
Section 4.2 "The owner or operator of a stationary source shall submit enhanced emissions statements for listed toxic air contaminants (TACs) to the District …"
Recommendation: The regulation should explicitly state that the contents of the enhanced emissions statements will be available to the public at the same time the information is provided to the Metro Louisville Air Pollution Control District. The owner or operator of the stationary source should be required to place the information in appropriate public repositories at the same time the information is submitted to the District.

Regulation 1.06
Section 4.5 "…the District may require the owner or operator of the stationary source to submit the applicable stack and fugitive emission release parameter information. In this case, the District shall provide written notice to the owner or operator of the stationary source, specifying the required information to be submitted and the applicable deadline."
Section 4.6 "… the District may require the owner or operator of an identified stationary source to submit the information identified in sections 4.2 and 4.3 of this regulation. If the stationary source is already scheduled to submit the information identified in section 4.2 and 4.3, then the District may require the information to be submitted on an accelerated schedule."
Recommendation: Clauses should be inserted in these sections that clearly state that information required in these sections be made available to the public at the time the information is submitted to the District.

Regulation 1.07
Section 1.2 "…excess emissions shall also include an ***appreciable increase*** in the emissions of a toxic air containment above the routine level of emissions that results from a startup, shutdown, or malfunction."
Recommendation: The regulation define "appreciable increase" above the routine level of emissions.

Regulation 1.07
Section 2.1 "The owner or operator of a process or process equipment has a ***general duty*** to ensure that the emissions from the process or process equipment are in compliance with all emissions standards at all times. This includes starting up and shutting the process or process equipment in a manner that the emissions are in compliance with all applicable emission standards and, consistent with safe operating procedures, stopping input feed to the process or process equipment and shutting down the process or process equipment if excess emissions would likely result from a malfunction."

Recommendation: The regulation should clarify that start up and shut down events will not have separate, higher emission standards when compared to the permit emission limits for emission point sources.

Regulation 1.07
Section 4.8 "No later than ***60 days*** after the excess emissions ended, the owner operator of the process or process equipment shall send a written report to the District …"
Recommendation: The sixty day deadline for malfunction reports to be submitted following excessive emissions is too lengthy a time period between the excess emission event and the report submittal. Since the report requires information on the cause of the malfunction, steps that will be taken to prevent similar occurrences and the frequency of excess emissions from malfunctions during the previous 2 years, the reported should be required to be submitted no later than 20 to 30 days after the excess emissions ended.

Regulation 1.20
Section 3.2 "The owner or operator of an affected facility shall submit a malfunction prevention program to the District within ***120 days*** of written notification from the District that a program is required. If the District determines that a revision to the program is necessary, the owner or operator shall, within ***60 days*** of written notification from the District of a deficiency, submit a revision to the program addressing the deficiency."
Recommendation: The 120 day deadline is too lengthy for the submittal of a malfunction prevention program. It should be shortened to 60 days. Furthermore, the 60 day deadline is also too lengthy for the submittal of revisions addressing the deficiencies. It should be shortened to 30 days.

Regulation 1.20
Section 3.6 "The owner or operator of the affected facility shall keep adequate records to document implementation of the components of the malfunction prevention program. These records shall be maintained for a minimum of 5 years and made available to the District upon request."
Recommendation: See recommendations for 1.06 3.7 concerning retention of records, documents and data. Records required by this section should be available to the public.

Regulation 1.21: Enhanced Leak Detection and Repair (LDAR) Program
Recommendation: Add to the regulations a mechanism that allows for the leak concentrations to be reduced if the leak concentrations sited in the proposed regulations leads to the exceedance of the health risk goals.

Regulation 1.21
Section 13.2 "The owner or operator of an affected facility pursuant to section 1.1.2 shall submit the leak detection and repair plan to the District within ***120 days*** of written notification from the District that a plan is required. If the District determines that a revision to the plan is necessary, the owner or operator shall, within ***60 days*** of written notification from the District of a deficiency, submit a revision to the plan addressing the deficiency."

Recommendations: The deadlines of 120 days and 60 days for the submittal of leak detection and repair plans and revisions are too lengthy. The time periods should be reduced to 60 and 30 days, respectively.

Regulation 1.21
Section 13 Leak Detection and Repair Plan
Recommendation: A provision should be inserted that requires the leak detection and repair plans to be updated at least on a five year basis and when ever new units or equipment are added to a facility.

Regulation 5.20
Section 6 "In addition, the District will maintain a current list of the benchmark ambient concentrations that have been developed pursuant to this regulation and maintain this current list on its web page."
Recommendation: The District should post on its website the current list of the benchmark ambient concentrations as soon as possible rather than waiting for the regulations to be promulgated.

Regulation 5.23 Categories of Toxic Air Contaminants
Recommendation: Dioxin and Dioxin-like compounds have not been included in Category 1, 1A, 2, or 3 toxic air contaminants. A number of the industrial facilities in Jefferson County, particularly in the Rubbertown area, have the potential to emit dioxin and dioxin-like compounds. Thus, Dioxin and Dioxin-like compounds should be added to the list of toxic air contaminants, preferably to Category 1 or 1A.
Recommendation: Methyl Acrylate is released into the air by Noveon and Rohm and Haas but it is not included in the chemical categories 1, 1A, 2, or 3. The chemical Methyl Acrylate should be added to Category 3.